

OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management

MEMORANDUM OM 95-87

November 9, 1995

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: B. Allan Benson, Acting Associate General Counsel

SUBJECT: Unfair Labor Practice Hearings Scheduled for November

As you are aware, the continuing resolution under which we are operating expires at midnight of November 13, 1995. If there is neither an additional continuing resolution nor an appropriations bill funding our Agency for Fiscal Year 1996 in effect by midnight of November 13, a shutdown of Agency operations would have to begin on Tuesday, November 14. At this time, it appears that we may not know until November 13 whether this will occur. Accordingly, in cooperation with the Division of Judges, we have formulated contingency plans for unfair labor practice hearings scheduled to be litigated the week of November 13. In doing so, as in the past, we have attempted to balance the need for administrative simplicity, the fairness to all parties to have adequate notice and preparation time, and the desire to limit the number of postponements as much as possible.

All trials scheduled to commence on Monday, November 13 should be conducted. In the event of a lack of funding as of November 14, the trials which opened on November 13 should continue on November 14 as part of the orderly shutdown of Agency operations. If these trials cannot be completed by November 14, they should be recessed on November 14 so as to allow sufficient time for employees to return to the Regional Office or their residence by the end of the workday.

Trials scheduled to commence on Tuesday, November 14 within the metropolitan areas of New York and San Francisco - Oakland will open as scheduled and, if not completed and no spending authorization has been enacted, recess at the end of the day.

With respect to all other trials scheduled to commence on
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November 14, if there is no additional funding in place by the morning of November 13, the following will occur:

1. The parties are to be immediately advised by the Regions that the trials will begin on Wednesday, November 15, assuming there is funding by November 14.¹ The Division of Judges should be notified when this has been accomplished.

2. Thereafter, If there is subsequent funding by the morning of November 14, all trials which were postponed one day until November 15 will commence on November 15 unless the Regions are notified by the Division of Judges to the contrary. Moreover, all trials scheduled to commence the remainder of that week will be held.

3. If there is no subsequent funding by the morning of November 14, an order will issue by the Division of Judges postponing indefinitely both these trials and all other trials scheduled for the remainder of that week.

At this time, it does not appear that any hiatus in Agency operations, if it occurs at all, would last more than a few days. In addition, there are no hearings scheduled the week of November 20. Therefore, we have not set forth contingency plans for trials scheduled subsequent to the week of November 13.

If you have any questions, please contact Deputy Assistant General Counsel Nelson Levin or your Assistant General Counsel.

B.A.B.

cc: NLRBU

¹ In order to secure the availability of the parties, Regions should notify them at this time that there is a possibility that these November 14 trials will be moved to November 15.